THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.8902 OF 2005

AND

WRIT PETITION NO.8947 OF 2005

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DATED : 24-02-2006

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Between:

Mr. Pagidi Krishna Murthy and another. … Petitioners

And

1. The Deputy Registrar of Co-operative Societies, Hyderabad, and others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.8902 OF 2005

AND

WRIT PETITION NO.8947 OF 2005

COMMON ORDER:

These two writ petitions, which are based on the same set of facts and arise out of a common cause of action, are heard together and decided by this common order.

Heard both sides and perused the material on record.

The petitioner in W.P.No.8902 of 2005 is the proprietor of M/s. Krishna Timber & Furniture Depot, who availed certain loans from the 2nd respondent Bank. It is not in dispute that since the petitioner committed default in payment of amount due, at the instance of the 2nd respondent Bank, the 1st respondent – Deputy Registrar of Co-operative Societies issued a Certificate dated 13-8-2004 under Section 71 (1) of The Andhra Pradesh Co-operative Societies Act 7 of 1964 for recovery of a sum of Rs.14,99,524/- towards arrears from M/s. Krishna Timber & Furniture Depot, represented by the petitioner and other sureties. The said order is questioned in W.P.No.8902 of 2005.

While so, W.P.No.8947 of 2005 has been filed by one of the depositors of the 2nd respondent Bank stating that the 2nd respondent Bank failed to repay her fixed deposit amounts and other monies lying in her Savings Bank Account. It is also stated that out of total sum of Rs.15,97,884/- towards the amounts covered by deposits matured only a sum of Rs.63,000/- was paid to her. It is also stated that the said deposits were made by her at the instance of the petitioner in W.P.No.8902 of 2005 and that since the regular banking transactions of the 2nd respondent Bank were stopped, she was informed by the 2nd respondent that they cannot pay the amount in view of the restrictions imposed by the Reserve Bank of India. In the circumstances, she approached the petitioner in W.P.No.8947 of 2005 to settle the matter and he agreed to accept the adjustment of the fixed deposit amounts lying with the 2nd respondent Bank as against his loan accounts. Accordingly, she made a

request to the 2nd respondent Bank to adjust her F.D.R. amounts and the amounts due to her under various accounts against the petitioner in W.P.No.8902 of 2005. But, the 2nd respondent Bank expressed its inability on the ground of want of permission from the Reserve Bank of India. Hence, in W.P.No.8947 of 2005, a Writ of Mandamus has been sought to declare the inaction of the respondents in crediting the amount due to the petitioner under the fixed deposits and other accounts to the loan account of the petitioner in W.P.No.8902 of 2005 i.e., O.D. Account No.009 and Term Loan Account No.001 of Nandyal Branch as arbitrary and illegal.

Though no counter-affidavit is filed on behalf of the respondents, the learned Counsel appearing for the 2nd respondent Bank, under instructions, states that the Reserve Bank of India has framed draft guidelines for set off / adjustment of the deposits against non-performing assets of the Urban Co-operative Banks working under directions issued by the Reserve Bank of India under Section 35-A of the Banking Regulation Act, 1949 and that the Commissioner for Co-operation and Registrar of Co-operative Societies, vide proceedings dated 14-11-2005, communicated the same to the Chief Executive Officer and Managing Directors of all Urban Co-operative Banks. The learned Counsel further states that in pursuance thereof, the 2nd respondent Bank issued a Circular dated 16-1-2006 in terms of the guidelines issued by the Reserve Bank of India which will be in force till 31-3-2006. A copy of the said Circular dated 16-1-2006 has been placed before this Court.

The learned Counsel further states that in view of the guidelines issued by the Reserve Bank of India as adopted by the 2nd respondent Bank, in case an appropriate application is made by the petitioners in both the writ petitions, the same will be considered by the 2nd respondent Bank and appropriate steps will be taken for set off / adjustment of the deposits of the petitioner in W.P.No.8947 of 2005 against the loan account of the petitioner in W.P.No.8902 of 2005.

The learned Counsel for the petitioner does not dispute the same.

Accordingly, the statement of the learned Counsel appearing for the 2nd respondent Bank is placed on record and the writ petitions are disposed of granting liberty to the petitioners in both the writ petitions to approach the 2nd respondent Bank with appropriate representations in terms of the Circular of the 2nd respondent Bank dated 16-1-2006, in which event the same shall be considered by the 2nd respondent Bank and appropriate steps shall be taken expeditiously within the time stipulated under the guidelines.

Meanwhile, the auction proposed by the 2nd respondent Bank under the Auction Notice dated 16-2-2006 shall be stayed subject to the condition of the petitioner in W.P.No.8902 of 2005 depositing a sum of Rs.3,00,000/- (Rupees Three lakhs only) within a period of four weeks from today towards the amounts due under the loan accounts of the petitioner in W.P.No.8902 of 2005. Out of the said amount, the learned Counsel for the petitioner in W.P.No.8902 of 2005 has handed over a demand draft dated 20-2-2006 for a sum of Rs.1,00,000/- (Rupees One lakh only) to the learned Counsel appearing for the 2nd respondent Bank today in the open Court.

The said payment is hereby recorded and the Writ Petitions are accordingly disposed of with the above directions.

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G. ROHINI, J.

Dt. 24-02-2006

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